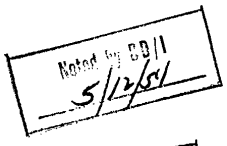
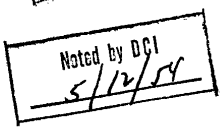
For Release 10:00 A.M. Friday, April 16, 1954





REPORT OF THE COMMITTEE

ON

FREEDOM OF INFORMATION

This report summarizes some of the work done by the Freedom of Information Committee in the past year. It is not an attempt to review the progress that has been made throughout the country in opening the channels of information between citizens and their government at local, state and federal levels.

Each newspaper in the country, in its day to day operations, is engaged in a continuing effort of this kind. It is certain that others, in their private capacity and in their role as ASNE members, have made contributions as notable in the defense of "The People's Right to Know."

The effort is one in which citizens everywhere are engaged. In addition to countless individuals who are making their separate contributions, there are of course many other organizations with formal committees such as that of the ASNE vigorously pressing for better access to information. An effort has been made to keep up a liaison with them. There has been a systematic clearance of information among these groups, including the committees of Sigma Delta Chi, the National Press Photographers Association, the Associated Press Managing Editors Association, the NEA. The chairman of the ASNE committee has met with representatives of these committees from time to time and copies of letters and reports have been exchanged. A closer and more formal connection has been advocated from time to time, but your committee generally has felt the present informal working arrangements achieve cooperation without impairing the freedom of action of each national organization.

Again and again, in the course of its work, this committee has confirmed the findings of Dr. Harold Cross who first made known in "The People's Right to Know", just how little explicit legal right we have to information about the transactions of the executive departments of the federal government. As long as there is, in the federal establishments, a broad recognition of the traditional rights of Americans to know about their federal government these defects are not fatal to a full information of the citizenry. Where individual officers do not acknowledge these rights, the imperfection of the statutes is a bar to effective legal action to gain that which is not proferred voluntarily.

Neither this committee nor any other committee of which it has any knowledge now is engaged in any effort to correct the inadequacies of existing statutes, to assure satisfactory access clauses in new legislation or to prevent new legislation that continues the process of stopping up the sources of information about the government. At the moment, there is no agency or committee or group that is even reporting upon a slow legislative corrosion of the right to know, let alone an organization that is doing anything about it.

Decisions in this area are those of the Board of Directors and of the membership of the ASNE, but this committee would be negligent of its duty if it did not report that the situations revealed in Dr. Cross's book, respecting an enforceable right to information at the federal level, continue unchanged. Nothing is being done about the defects in federal law that existed when his book was written. Nothing is being done to prevent more restrictive federal statutes from being passed. This knowledge gives the committee, from time to time, the discouraging sensation that new barriers to public knowledge are being reared more rapidly than old ones can be removed through the efforts of volunteer committees who have no power but to convince and persuade administrators to yield up information they

could not be required, by law, to disclose.

In addition to the situations referred to in this report, the members of the committee have tried, within the limits of their time, to carry on a campaign of education. They have made appearances before freedom of information clinics and other groups and have furnished material to newspapermen and other citizens engaged in quarrels with local and state and federal officials. Unfortunately, the committee has been able to deal with only a fraction of the requests for speakers and it is impressed and depressed by its inadequacy in this respect.

For the convenience of members this report has been prepared in sections. There are five different sections. One deals with access to legislative establishment, one with access to the judicial and law enforcement agencies, one with access to the executive departments, one with the general problem of military security and one with the problems encountered in the field covered by the Atomic Energy Commission.

SECTION I

Access to Legislative Proceedings

We have continued to work for access to legislative proceedings at the national, state and local level.

It is a long time since the people's access to Congress and to state legislatures has been restricted, but in the past several decades an increasing proportion of the actual legislative process has moved off the floors of legislative assemblies and back into legislative committees.

Our attention, therefore, has been devoted to opening up the proceedings of these committees.

Congressional Quarterly has been most helpful in doing the research that has disclosed that 44 percent of all committee and subcommittee meetings of the first session of the 83rd Congress were closed. Of 3,105 such meetings, 1,357 were conducted behind closed doors.

The evils of this practice were pointed out 40 years ago by Woodrow Wilson, John Garner and other distinguished critics of our legislative process. The agitation of those who feared such secrecy led to that section of the La Follette-Monroney Congressional Re-organization act which requires that "all hearings conducted by standing committees or their subcommittees shall be open to the public, except by executive sessions for making up bills or for voting or where the committee by a majority vote orders an executive session".

This by no means meets the objections of those who oppose secret meetings but even this provision seems more honored in the breach than in the observance thereof.

Last April, several discussions were had with members of the Senate Committee on Foreign Relations. Of 102 meetings which it held in the first session of the 83rd Congress, only 14 were open. Senator Alexander Wiley, Chairman of the Committee patiently heard our case, but in conclusion announced that the committee would continue to hold (a) legislative meetings in public (b) other hearings in public when possible and (c) general sessions for the purpose of obtaining background information closed UNLESS A SPECIFIC VOTE TO THE CONTRARY OCCURS.

(Resolution passed by ASNE Board of Directors, Wednesday Morning, relating to legislation concerning the right to know.)

The Board of Directors shares the feeling of the Freedom of Information Committee that we are losing the battle for the public's LEGAL RIGHT to knowledge of the complex activities of the Federal Government. There must be a close scrutiny of all new legislation to spotlight repressive clauses and to make known to members of the Society all the possibilities of improving the legal rights of access. This undertaking is to be studied in detail with the help of Dr. Harold L. Cross and tangible recommendations made to the Board. It is quite likely that the services of a Washington attorney will be required. We believe any reasonable expense will be justified if we are to follow up the good effects of Dr. Cross' book and make any material progress against the persistent forces of news repression. We think the members of the Society should know of this project and have every opportunity to discuss it with Board members or in The Bulletin. The Society has invested very little in freedom of information. The $4,000. advanced on "The People's Right to Know" has been refunded by the publishers from sales revenue.

ERRATA

Page 6, line 13 - Should read

"South Dakota and Washington" instead of
"South Dakota and Wisconsin"

Page 13, line 40 - Should read

"In PENNSYLVANIA, Common Pleas Court" instead of
"In PENNSYLVANIA, Common Peas Court"

Direct results of conversations with this and other committees have not been too encouraging but we continue to hope that the persistent presentation of the point of view of the ASNE may gradually persuade more and more committees to meet in public.

V. M. Newton, Jr., chairman of the Freedom of Information Committee of Sigma Delta Chi, has pressed the campaign for open congressional committee meetings most vigorously. Every report of a closed session has brought from him a complaint to the chairman, protesting closed sessions. His letters have evoked many favorable responses. We continue to be hopeful that progress will be made.

The important effect which the practices of the Congress have upon state legislatures and local law-making bodies is one of the reasons for our anxiety about the policies of the Congress. The frequency of closed committee meetings in Washington is often cited as justification for closed meetings elsewhere.

A notable set-back was received in North Carolina where the State Legislature, in March of 1953, amended a 1925 statute under which sessions of the joint committee on appropriations were always openly conducted. Attempts to repeal the secrecy amendment in April, 1953 failed of passage. At the request of the North Carolina Press and on behalf of this society, a brief was submitted for presentation to the North Carolina Legislature and read at the hearings on the repeal measure. In January, 1954, at a Freedom of Information Clinic sponsored by the North Carolina Associated Press Members, the chairman of this committee spoke on access to legislative proceedings and urged the repeal of the secrecy amendment. The North Carolina Press Association, and its counsel William C. Lassiter, have been pressing vigorously for the restoration of full access to these proceedings and are still hopeful of ultimate success.

The statement submitted on behalf of ASNE to the Joint Committee on Appropriations, General Assembly of the State of North Carolina follows:

April 20, 1953

To the Joint Committee on Appropriations,
General Assembly of the State of North Carolina.

On behalf of the Freedom of Information Committee of the American Society of Newspaper Editors, may we respectfully express the hope that the General Assembly of the State of North Carolina will see fit to enact House Bill 1071 (Senate Bill 408) which would have the effect of restoring the 1925 statute providing for public meetings of the Joint Appropriations Committee and Appropriations Subcommittees.

When the North Carolina Assembly enacted this law in 1925, it placed the State of North Carolina in the forefront of all the states in its acknowledgement of the right of the people to know about the conduct of their own government. It is of the utmost importance, not only to North Carolina, but to the whole country that this great tradition of your state be continued. The operations of the North Carolina legislature, under the statute, long have been a demonstration that these transactions can be conducted in public efficiently and expeditiously. The state has proved in practice what the philosophers have held in theory -- that when the people are kept continuously informed as to the details of discussion in a legislative body, that body becomes the beneficiary of the best brains of a whole community. When the deliberations proceed upon a false premise, correction is forthcoming from the best informed among the public. Error is thus kept from being incorporated into the conclusions of a committee or a legislature. Mistakes of fact and judgment are currently corrected and adjusted and are kept from being incorporated in the final conclusions of a legislative group.

When a legislative body proceeds in secret, errors accumulate throughout the deliberation and may be carried into a finished proposal where they may be discovered too late for easy and quick correction. Your committee, I am sure, is well aware that despite all precautions, there is no such thing as a really secret proceeding in a committee or an assembly attended by many members. When the public is denied an official access, it usually obtains an illicit one, and those who furnish such a report are likely to be persons of selfish purpose or mischievous aim. Their faulty reports are likely to become the foundation for mistaken public opinion.

Legislative proceedings in public have a virtue that Jeremy Bentham, a distinguished English law writer, has claimed for judicial proceedings in public: they prevent the reputation and character of the law makers from being impugned by false reports of their conduct and dishonest representations of their views and votes.

Open hearings really enlist all the people of the state in the governmental process. As John Stuart Mill has put it: "By the utmost possible publicity and liberty of discussion.....not merely a few individuals in succession, but the whole public are made, to a certain extent, participants in the government, and sharers in the instruction and mental exercise derivable fom it."

We have on many occasions learned how dangerous it is to give people authority without giving them information. There is no example in history where the people were rendered dangerous by giving them the information needed to use their authority intelligently. The North Carolina Assembly of 1925, rightly concluded, when it opened the proceedings of its committees, that no honest law maker has anything to fear from an informed public, or anything to gain from a public that is not informed.

If we may paraphrase here the Andrew Hamilton argument in the Zenger case, this cause is more than the cause of the press of North Carolina; it is the cause of all the people of North Carolina; and it is also the cause of all the citizens of every state for, in one degree or another, the access of citizens everywhere to the proceedings of their legislatures, will be influenced for good or evil by the action your committee takes today.

/s/ J. R. Wiggins, Chairman
J. R. Wiggins, Chairman
Freedom of Information Committee
American Society of Newspaper Editors

An effort to force open legislative committee sessions by legislative resolution was made in Virginia. A resolution introduced by State Senator Ted Dalton of Radford, Va., failed of passage but following its rejection by the Senate Rules committee, Lt. Governor A. E. S. Stephens announced that Senate committee votes hereafter would be made a matter of record.

ASNE members in other states continued to work for open conduct of legislative committee proceedings.

Among these efforts was that in New York where members supported a movement to provide the people for the first time with a complete transcript of legislative sessions.

In Nebraska, editors continued to fight for access to legislative committees which have in the past met and voted in secret. Committee meetings were finally largely opened but voting continued to be in secret and editors under the leadership of Burt James, Managing Editor of the Hastings Daily Tribune have been laying the

ground for a fight to change the rules.

Local Governing Bodies

Local governing bodies throughout the country, from time to time continued to close their sessions to the people. It is not possible to enumerate even a fraction of the efforts to gain access to such proceedings that have marked the past year. ASNE efforts include those made in connection with:

THE REDEVELOPMENT LAND AGENCY of the District of Columbia which was persuaded to make more complete release of information concerning land acquisition.

MOTOR VEHICLE PARKING AGENCY of the District of Columbia which agreed to hold its meetings in public.

MIAMI UNIVERSITY Board of Trustees meetings were opened to the public on June 5.

STATE LITERATURE COMMISSION of Georgia, access to the proceedings of which was pushed by the state Freedom of Information Committee under Sylvan Meyer of the Gainsville Daily Times.

CITIZENS ADVISORY COUNCIL of the District of Columbia which declined to open its proceedings but finally consented to disclose its recommendations to the Board of Commissioners.

COMMON COUNCIL OF THE CITY OF MILWAUKEE which held executive sessions in such a manner as to restrict the access of citizens to proceedings. Its action was vigorously opposed by the Milwaukee Journal.

SECRECY OF COUNTY BOARDS IN NORTH CAROLINA, newspapers discovered in January of this year, was permitted in a little noted act passed by the 1951 legislature and the North Carolina Press Association is endeavoring to have the law repealed at the next legislative session.

THE CITY TRAFFIC DEPARTMENT of Los Angeles undertook a restrictive news policy which was vigorously opposed by the Los Angeles Times. (Managing Editor Hotchkiss is a member of the ASNE FOI Committee).

IN WISCONSIN, the State Conservation Commission, on Friday, April 9, voted to hold all meetings in the open and make disclosure of all minutes of the Commission's meetings. This action was taken as the result of publication by the Milwaukee Journal of a report that the Commission had been holding some open and some executive sessions and had been keeping separate minute books with the executive minutes available only by special permission.

These are only samples of countless such contests throughout the country. Generally, there has been little call upon or reliance upon the ASNE FOI committee, as state FOI committees and local newspapers have grown more and more aggressive in pushing issues of secrecy instantly on their own motion. It has not been the policy of the committee of ASNE to intervene anywhere except on request and on occasion, information has been sent to local newspaper editors involved in a struggle with some legislative board or council or committee.

In this year, as in other years, there have been instances in which newspapers have supported the secrecy with which some local agencies have conducted public business. The number of such instances seems to decline each year, fortunately.

IN ILLINOIS, on March 3, the Illinois Budgetary Commission voted unanimously to reopen its meetings to newsmen, except for occasional executive sessions. Open hearings were urged by M. J. Gagie, executive editor of the Danville Commercial News and by Basil Walters, executive editor of Knight Newspapers, Inc., and the President of ASNE.

ACCESS TO PUBLIC PROCEEDINGS and records is provided in nine new state laws passed at legislative sessions since our last meeting. A complete summary of these statutes (and of recent court decisions) appears in a supplement to THE PEOPLE'S RIGHT TO KNOW which has just been completed by Dr. Harold Cross. He provides the full text of information statutes passed in California, Idaho, Indiana, Louisiana, Ohio, South Dakota and Wisconsin. The new Maryland and Massachusetts statutes were not available at the time of publication of the supplement.

SECTION II

Access to Executive Departments

Efforts of the Freedom of Information Committee to maintain the right of the people to know about the executive departments of their federal government, during the year, centered upon two general areas.

Complaints of individual editors who encountered secrecy in their efforts to get information were dealt with by the FOI committee as they arose.

A general campaign to obtain more communicative attitudes and policies in the various federal departments was carried on with some encouraging results and some discouraging failures. An effort to get the federal departments to hold regular, periodic press conferences was made throughout the year and it is believed that the FOI Committee was of some help in getting established the regularly conducted press conference schedules of the Department of Justice, the Department of Agriculture and the Post Office Department. Announcement of the institution of regular press conference at the Department of Commerce is expected shortly. The Department of Interior also has our proposal under advisement. The White House press conference, of course, continues as a well established institution through which the people of this country gain an understanding of executive policies and purposes that they could obtain in no other way. The same useful purpose is served by regularly scheduled press conferences at the Defense Establishment, the Mutual Security Administration and the State Department. Members of the ASNE are urged to use their influence to get the heads of other departments to meet regularly with the press.

The Department of Agriculture

The Department of Agriculture has been notably cooperative on issues with which your committee has had to deal. Secretary of Agriculture Ezra Benson dealt personally with some complaints received from the field and invited your committee to discuss with him the institution of regularly scheduled press conferences.

Regulations of the Production and Marketing Division's county instruction book forbidding the publication of information on recipients of help under the drought program were amended. Complaint was made last August by Houston H. Harte of the Snyder Daily News of Snyder, Texas, when names were withheld from him. On Sept. 18th, the chairman of the FOI committee met with Secretary Benson to discuss the Snyder case and the rules under which the information had been kept secret. On Dec. 3, R. L. Farrington, director of

Agricultural Credit Service announced that hereafter it "will be feasible for the Department to permit a review of the records in the drought aid program at reasonable times".

A USDA general circular issued Nov. 4, 1953 forbid the release in the field of information on Agricultural Stabilization and Conservation Service loans to farmers until the information could be made available on the national level. This meant a delay of about two months in the release of local loan figures and the new directive was called to the attention of the FOI committee by Howard C. Cleavinger, of the Spokane Daily Chronicle, of Spokane, Washington. On January 11, the Department issued a new order, superseding the Nov. 4 order, providing that local officials may release, on request, the latest available figures in their offices on total commodities pledged under the price support program for which they are responsible. The change was directed by Howard Gordon, Administrator of the Commodity Stabilization Service Administration.

A conference was held in September with Ancher Nelson, director of the Rural Electrification Administration, on report of the Louisville Courier Journal that the Administrator had pledged to secrecy representatives of a cooperative group attending conference in Washington. The Administrator gave assurance that this was not his intention.

On March 2, Frank Linn, Emporia (Kansas) Times, informed the FOI Committee that the Chase County Agricultural Stabilization and Conservation Committee had denied access to information about drought emergency activities. The Commodity Stabilization Service in Washington promptly telephoned the Kansas State ASC office and directed that it get in touch with the county committee and clarify policy on the availability of drought information. This was made known to the Emporia Times and the sought-for information was released.

Defense Establishment

For some years past the bulk of specific complaints about federal departments have concerned the Defense Establishment. This no longer is the case. The long effort of Basil Walters, James Pope and other FOI committee members has no doubt contributed toward a generally more acceptable information policy in the Defense Establishment. Secretary of Defense Wilson, in his regularly scheduled press conferences, has been responsive and informative and his conferences have been notably productive of information on the vital defense program.

When AP reports of an aircraft accident at Milton, Florida on July 18 indicated that the scene of the crash has been so restricted as to impair access to information by the press, complaint was made to the Navy. Instead of any occasion for complaint, however, the Milton episode proved to be more properly one for congratulation for the Navy gave the press the fullest cooperation in providing names of casualties and information about the accident.

NEXT-OF-KIN notification in the case of military casualties continued to delay the release of names in some cases, in spite of the explicit instructions of the Defense Department Directive of Oct. 22, 1952.

In the case of the Leyte disaster last fall, the release of names was considerably delayed. The Commanding Officer and the PIO held up release of names until 9:00 a.m. the following day. William J. Foote of the Hartford Courant vigorously protested and the FOI committee joined in his complaint to the Chief of Information of the Navy Department. The Navy agreed that the delay was "a very

ill-considered action".

On May 8, 1953, Howard Cleavinger, Spokane Chronicle, called attention to a directive issued at the Fairchild Air Force Base providing for 4 to 12 hour delay in releasing names of casualties pending notification of next of kin.

In order that all members may have at hand the means of countering such delays encountered hereafter we are reprinting herewith the Department of Defense Directive of Oct. 22, 1952, which still is in effect. All Defense Departments have since put this directive in force in notices to all staffs.

The Department of the Navy dispatched the contents of this directive to all staffs on October 25, 1952 in a telegram, stating: "Defense Department Directive will provide guidance on which to base any replies to press queries." This was followed on March 24, 1953 with Bureau of Personnel instruction 1088.3 restating the departmental directive over the signature of J. F. Bolger, Deputy Chief of Naval Personnel. Third Army Headquarters ordered the departmental directive into effect by a telegram of October 25, authorizing the release of the information concerning persons involved in accidents on Wednesday, October 29. This message stated: "Recommend all echelons be fully briefed on new policy prior to release date. Army special regulations implementing this directive expected to indicate that doubtful cases will be locally resolved in favor of most expeditious release of information." The Air Forces, on October 22, dispatch the text of the directive to their staffs and directed: "All Air Force commands and independent agencies will be guided by the provisions of this directive until such time as an Air Force implementing regulation is issued."

The text of the Oct. 22 Defense Department Directive follows:

Department of Defense Directive dated October 22, 1952:

Release of Information Concerning Military Personnel Involved in Accidents

I. PURPOSE

This directive establishes uniform Department of Defense policy on the release of information concerning military personnel involved in accidents within the continental United States.

II. ACCIDENTS WITHIN ARMED FORCES INSTALLATIONS

In all cases of accidents within the confines of installations of the armed forces:

A. Public release of names and addresses of killed or injured military personnel may be withheld until such time as the next of kin can reasonably be expected to have received the official notification of the accident;

B. Every effort should be made, however, to release such names and addresses simultaneously with, or as soon thereafter as possible, the release of the accident news itself, so as to remove or lessen the anxiety of relatives of other personnel on the installation.

III. ACCIDENTS OUTSIDE ARMED FORCES INSTALLATIONS

In all cases of accidents outside the confines of installations of the armed forces:

A. If military personnel figure in accidents involving civilian or military automobiles, trains, commercial or private airplanes, or in any other types of accidents, with the exception of III C below, the names and addresses of the military personnel should be released immediately upon identification.

B. If the accidents involve military airplanes which crash in or upon the borders of cities or towns, or which cause civilian casualties or appreciable damage to property - that is, if there has been a major invasion of the civilian domain - the names and addresses of the military personnel should be released immediately upon identification; if classified equipment is involved, normal security precautions should be observed with respect to the equipment.

C. If the accidents involve military airplanes which crash in localities remote from populated areas, involve no civilian casualties, and cause no appreciable property damage - that is, if there has been no major invasion of the civilian domain - names and addresses of the military personnel may be withheld until such time as the next of kin can reasonably be expected to have received official notification of the accident.

IV. IMPLEMENTATION

Copies of directives or regulations issued to implement this policy shall be furnished the Office of Public Information, Office of the Secretary of Defense.

Access by Photographers

Early in 1953 the United States Army promulgated its regulations governing conduct of military personnel charged with protection of government property at the scene of accidents and their instructions concerning the rights of photographers to make photographs. The Army directive is not as explicit and satisfactory as that previously issued by the United States Air Force but it eliminates occasion for complaint that existed under earlier policies. ASNE was not successful in efforts to get an agency-wide regulation in the Defense Establishment but the sense of the policies outlined in the Air Force and Army regulations was communicated to information agencies of the Defense Establishment.

In an organization as large and as widely dispersed as that of the Defense Establishment it is inevitable that there will be occasional field violations of well established rules and regulations. It is encouraging to report that actions inconsistent with the next-of-kin rules and with the new Air Force policies on photographing air accidents have been fewer and fewer.

During the year, the FOI Committee was frequently consulted by the Defense Establishment on questions involving the press. Members of the Committee studied and commented upon the revision of Army Regulations 360-5, concerning "Security Control of Photography or Sketches Made by Civilians Outside Military Installations within Continental United States, Its Territories and Possessions". The

Committee was given an opportunity to review and to make recommendations respecting a new field manual on Public Information General Policies (360-5), Officials of the Department were responsive to criticisms and suggestions made by members of the committee.

Civil Service Commission

The information policies of the Civil Service Commission have been somewhat disappointing.

On April 15, the Congressional Quarterly asked Philip Young, Chairman of the Commission for information relating to retirement benefits accruing to former Members of Congress and other governmental officials. Mr. Young, in reply, held that "a right of privacy" ought to shield these figures after the retirement of congressmen on "annuities towards which they make a substantial contribution". The Commission declined to make a change in its regulations.

The FOI Committee of Sigma Delta Chi then made representations to Mr. Young and their efforts were equally unavailing.

Conferences have been held on this point with Presidential General Counsel Bernard Shanley but it has not so far been possible to reverse the policy of the Commission.

Prolonged discussion was had over another policy of the Commission relating to the withholding of the breakdown on the security program. After weeks of petition a breakdown finally was obtained. Inasmuch as these figures were described as under security classification the FOI Committee conferred with Counsel Shanley on this matter. He was informative and helpful.

Conferences on the congressional pension matter and on other aspects of the Civil Service Commission's information policy about which some complaint has been received have been sought but, so far, have not been granted.

Post Office Department

The Post Office Department, during the year, has inaugurated more liberal information policies.

Last June, following conferences with members of this Committee, officials of the Department made it known that hereafter causes for the closure of post offices would be published. Complaint was made by John Colburn, of the Richmond Times Dispatch, on June 24, that his reporters had found it impossible to ascertain the reasons for closing offices. There have been no such complaints since.

On Nov. 18, Postmaster General Arthur E. Summerfield set another Department precedent in the information field by announcing disciplinary action against 42 supervisors and the reasons therefore. On the same date the Department announced its reasons for removing Postmaster Michel D. Fanning of Los Angeles. Hitherto the Department has been uncommunicative as to causes for removal, in many cases.

This month, General Summerfield announced that he will hereafter hold periodic regularly scheduled press conferences.

Whenever complaint of Post Office Department policies has been received officials of the Department have made themselves immediately available for discussion of the complaints and have followed up promptly with promised remedial action.

Justice Department

Access to information at the Justice Department has continued to improve.

Note has been taken elsewhere in this report of the Department's action on the Classification Order, on the release of pardon information, on clarification of rules governing access to deportation proceedings, on improved rules governing the conduct of marshals when photographs of accused persons are sought.

The regularly conducted periodic press conferences at the Department have improved the country's knowledge of the policies and plans of the Department of Justice.

The attorney General, and other officials in the Department are more accessible to the press than hitherto.

Clarification of rules governing the release of pardon information still is being sought.

The Committee feels that it has been useful in bettering access to information at the Department of Justice and wishes to take note of a friendly, cooperative attitude and of a very evident appreciation of the policies and philosophy of this society among the officers of the Department from the Attorney General down.

Other Departments and Agencies

When members of the committee have had an opportunity to confer personally with officials of the executive departments on access to information they have generally encountered sympathetic and responsive attention.

It has not been possible to achieve, in all instances, the access to information that has been sought. We are still hopeful that, in some of these cases still outstanding, success may still attend our efforts. In spite of some disappointments, the committee at this time, is much encouraged by the general attitude among government executives. There seems to be a widespread acknowledgement that citizens do have a right to know about their own government.

SECTION III

Access to Judicial Proceedings and to Law Enforcement Agencies

There probably is no aspect of an arbitrary totalitarian government that more distinguishes it from a free government than the exercise of the power of secret arrest, secret trial and secret punishment.

Notwithstanding this, the people's access to their courts was threatened in many quarters during the year.

In MARYLAND, a bill to prohibit State's attorneys from discussing a criminal case publicly or for publication until the case comes to trial was defeated in the 1953 legislature only after a difficult fight and a more restrictive juvenile court secrecy measure was buried in committee.

In THE DISTRICT OF COLUMBIA, Juvenile Court Authorities sought to restrain the Police Authorities from releasing the names of juveniles arrested for criminal offences. The office of the Corporation Counsel held that existing law permits police to withhold the names of persons arrested. Chief of Police, Robert Murray, promptly declared his intention uniformly to release names.

THE IMMIGRATION AND NATURALIZATION SERVICE on January 20, 1954, issued a welcome revision of its Operations Instructions, in order to prevent any further closed proceedings. (William Foote of the Hartford Courant vigorously protested when deportation proceedings in that city were secretly conducted early in the same month.) The new order provides that:

"Representatives of the press shall be permitted to attend (deportation) warrant hearings conducted by the Service." Further, "Representatives of the press shall be permitted to examine the records of such hearings, including the orders entered, testimony and exhibits".

The Justice Department took another step encouraging to those who seek fuller access to law enforcement and judicial proceedings when, in March, it instructed United States Marshals to refrain from interference with photographers. The instructions sent to marshals by Deputy Attorney General William P. Rogers, are as follows:

"United States Marshals and their Deputies shall, under no circumstances interfere with a reporter, photographer, or other person seeking to take a photograph of a prisoner on the street or in other public places outside the Federal Court House.

"However, no Marshal or Deputy Marshal shall halt or pose a prisoner for the benefit of photographers. They are fully capable of taking good news photographs while prisoners are being led at a normal pace along the public way."

Leadership in obtaining this revised instruction was taken by the National Press Photographers Association.

In NEW JERSEY, the State Supreme Court indicated its wish to restrict access to disbarment proceedings but later opened up these proceedings following protests of the State Freedom of Information Committee under Hugh Boyd of the New Brunswick Daily Home News.

In PHILADELPHIA, a study of the courts by Walter Lister, Managing Editor of the Philadelphia Evening Bulletin, disclosed that in the courts of that city 53, 431 proceedings were openly conducted

and 37,434 were closed to the public and the press.

In KENTUCKY, the arrest of a Louisville Courier Journal photographer and the seizure of his camera and film while he was on assignment covering a gambling raid, set off a legal fight that may place photographers in a more secure legal position than they have hitherto occupied. When charges against the photographer were quashed, the tables were turned on Police Chief George Gugel of Newport, Kentucky who had made the arrest and confiscated the equipment. Gugel was cited for violation of civil rights statutes and convicted.

In NEW YORK, a Committee on Civil Rights of the New York State Bar Association recommended adoption of the following resolution which is to be debated at the June meeting of the association:

"Resolved, that the New York State Bar Association urges the Legislature of the State of New York to adopt an amendment to the Civil Rights Law to provide that in connection with any case which may be pending in the criminal courts of the State of New York or in connection with any person charged with crime and in the custody of public authority, whether before or after indictment, it shall be unlawful for the prosecuting attorney, counsel for the defense, law enforcement or police officials, or any other person having official connection with the case to make any disclosure of the facts or conduct of the accused (other than an official, formal charge) statements or admissions allegedly made by him, evidence allegedly existing or available against him, alleged prior convictions of him, or any other matter pertaining to the issues to be tried, which may prevent a fair trial, improperly influence the court or the jury, or tend, in any manner to interfere with the administration of justice, unless such disclosure is authorized by order of the Court."

Sec. IV

The recommendations of the committee, headed by Louis Waldman, chairman, were vigorously opposed by other lawyers, headed by Edwin M. Otterbourg.

In ANOTHER NEW YORK CASE, the access of photographers to the proceedings of the Moreland Commission investigating race track operations was denied. In behalf of ASNE a vigorous statement advocating fullest public access to such proceedings was sent to the Long Island Day News which led the fight to open up the proceedings.

In PENNSYLVANIA, Common Pleas Court Judge Edward G. Bauer, issued an order barring the taking of pictures anywhere in the Westmoreland County courthouse or jail in connection with a criminal case before his court. (Feb. 12, 1954). The newspapers involved and the Pennsylvania Newspaper Publishers Association sought to restrain the enforcement of the order by an action in United States District Court and the proceedings were there stayed pending adjudication of the issues in the State Supreme Court to which an appeal now is being taken.

In OHIO AND COLORADO state courts have restrained the taking of photographs in court rooms under court rules conforming to ABA Judicial Canon 35, as amended on September 15, 1952 which states: "Proceedings in court should be conducted with fitting dignity and decorum. The taking of photographs in the courtroom, during sessions of the court or recesses between sessions, and the broadcasting or televising of court proceedings, are calculated to detract from the essential dignity of the proceedings, distract the witness in giving his testimony, degrade the court, and create misconceptions with respect thereto in the mind of the public, and should not be permitted."

In HAWAII, the Circuit Court, in March held that photographs might not be taken anywhere in the Judiciary (courts) building, in a case reported by Riley H. Allen, Editor of the Honolulu Star Bulletin.

In NORTH CAROLINA, Judge Johnson J. Hayes, in an address at a Raleigh FOI clinic, conducted by the North Carolina Associated Press Freedom of Information Committee, took exception to court restrictions upon new media. In the course of his address he said:

"I am unable to see why freedom of the press, which, when it was included in the law of the land, was the recognized medium for the dissemination of information, should be restricted to the instrumentality of the print shop; a liberal interpretation would extend the guaranty to the radio, photography and television."

In UTAH, the District Judges Association, in March, recommended that the Utah State Bar and the Utah Supreme Court re-examine the codes which prohibit picture taking in the court room, following a discussion in which it was urged that such rules as Canon 35 were adopted without full consideration.

JUVENILE COURTS, in nearly all jurisdictions, continue to be closed to the public, despite some efforts to alter present restrictive statutes, and in spite of growing misgivings about the wisdom of concealing from the public knowledge and awareness of the problems of youth in crime.

The Courts, of course, continue to be closed to those who would record their transactions on film, so long as Canon 35 of the ABA or Rule 53 of the United States Federal Courts prevails.

SECTION IV

Public Information on Military Security

The ASNE Freedom of Information Committee has been much concerned, throughout the year, with the problem of public information and military security, especially as the conflicting claims of these two public considerations were raised in Executive Order 10290, issued by President Harry S. Truman.

Early last year, conversations were held with Justice Department officials charged with the study of the old classification order. Press objections to it were emphasized.

On June 16, the Department of Justice released a first draft of a proposed order revoking 10290 and replacing it with a new classification order.

This committee pointed out that the changes met many of the most serious criticisms of newspapers. The press had objected to the Truman order on the ground that it dispersed power to classify; it permitted agency heads to delegate classifying authority; it inadequately defined security classifications; it failed to provide for any continuous or concurrent review of classification decisions. The June proposals touched upon many of these complaints.

On November 6, President Eisenhower signed the final version of the new order, revoking Executive Order No. 10290 of September 24, 1951. The new order with-held classifying authority altogether from 28 agencies and gave the power to classify to only the heads of 17 other agencies. It more explicitly defined the security classifications. It provided for a review of alleged improper classification by a member of the President's staff. It eliminated the restricted category entirely. It provided expressly that

"It is essential that the citizens of the United States be informed concerning the activities of their government."

The President's Counsel, Bernard Shanley, was assigned the task of hearing any complaints of violation of classification powers.

Many members of the Society had hoped that the revocation of Order 10290 would restore conditions to the situation that had hitherto prevailed. The Justice Department, which drafted the new order in consultation with other agencies of government, obviously found this course inacceptable to security agencies.

There have not been many complaints of improper withholding of information by reason of security classification. (There were not many complaints under the Truman order either, for, obviously, citizens have little opportunity to discover what is being withheld as long as security restraints are enforced.) The President's Counsel has not construed the assignment given him as broadly as this committee hoped he might, limiting himself to handling actual complaints, and not attempting to provide any continuous or concurrent review of classification operations. On the other hand, it is known that agencies have been repeatedly urged to avoid abuse of classifying authority.

The whole situation of military security, at the moment, remains somewhat unsatisfactory to both security agencies and to many members of the press.

From a public information standpoint, the present situation is unsatisfactory in that, no agency of government at present, is conducting a continuous and concurrent review of the actions of agencies authorized to classify information to see that they are not overclassifying and no agency of government is available to furnish guidance to the press, on matters of military security, except agencies primarily concerned with security.

From a security standpoint, dissatisfaction is frequently expressed in the government because there is no means of exercising prior restraint (even consultatively) over intended publications threatening a breach of security, and no means of dealing with offenses against military security except through the punitive provisions of the Espionage Act, and the Atomic Energy Act. This is somewhat like arming a quail hunter with an elephant gun. The provisions of the law, to which the press has not paid much attention and which the government has not, up to this date, employed in any action against a newspaper, ought to be more closely studied. Contrary to widespread opinion, they run against those who receive classified information improperly as well as those who disclose it improperly. Improper dissemination of such material, in order to be punishable under the statute, must be "for the purpose of obtaining information respecting the national defense with intent or reason to believe that the information is to be used to the injury of the United States". Since there has been no experience under the statute, with reference to newspaper publication, we lack certain knowledge of how courts might construe "reason to believe". It is clear, however, that this might be a close question. And it is plain that the government, in the presence of a disclosure, might submit the mere fact of a breach of security to a grand jury and leave the narrow questions of motive and "reason to believe" for trial interpretation. In the present climate of opinion, mere indictment under the Espionage Act, disclosing the bare fact that security had been compromised, would be so damaging to a publication or an individual that a defense on the grounds of good motive, although it ultimately cleared an accused person from the penalties of the law, might never clear him from penalties of public opinion.

Another section of this statute makes the severe penalties of the law ($10,000 fine or imprisonment for not more than 10 years, or both) run against those "having unauthorized possession of, access

to, or control over any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note relating to the national defense, or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicates, delivers, transmits or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it".....

This statute is far more general in its terms than the press has commonly appreciated. In the case of a real breach of security by a writer whose work is published nationally, all publishing firms having knowledge of the secret character of the matter disclosed, might be brought within reach of this statute.

Up to this moment, the government has never had resort to this statute in any action against a newspaper but has preferred, most wisely in our opinion, to rely upon the voluntary cooperation of the press in the vital business of safeguarding security information. Were the statute to be resorted to, it seems likely that the good understanding that hitherto has prevailed might be put in gravest jeopardy. Yet, it must be appreciated that this statute, far-reaching in its terms and punitive in the nature of its penalties, is the only legal resort we have left government for dealing with disclosures that constitute a genuine breach of security. During the war, of course, such laws remained the last reserve line on which government could have fallen back if voluntary censorship had not worked, or if it had not worked well enough to safeguard military security.

There was a tacit assurance, during the war, that these powers, which could be dangerous in the extreme to the press, would not be resorted to as long as any other methods were successful. Other methods were successful -- or sufficiently successful to satisfy security requirements. We need to examine what alternative methods have now been left to government.

Primary reliance of government, of course, has been and must be the discretion of those having official access to classified information. No problem of wrongful disclosure can arise but by their betrayal of trust. Government officials ought to take cognizance, moreover, of the difference in the injury wrought by general publication and that resulting from the secret transmission of classified information to an enemy. Publication in a newspaper, damaging as it may be, is a less dangerous form of disclosure. When security is compromised, the menace is compounded if the government remains in ignorance of the breach of security -- as it often does in real espionage cases. Publication in a newspaper at least puts the government on notice that secrecy no longer obtains and sets afoot such remedies for the breach of security as may be available.

Nevertheless, the danger is substantial. There is a tendency in many journalistic quarters to argue that security precautions are not necessary in time of peace. Let us face the fact that this is not a time of peace.

So what are our devices for preventing breaches of security by newspaper publications?

At the moment, we have nothing to offer but the independent, individual, voluntary acquiesence of the press in those self-imposed restraints upon the right to print information that is classified and may be of aid or value to an enemy. This has some short-comings, let us acknowledge. Military personnel of the government, who are under oath to preserve security and who are more adequately informed as to what information comes under security bans, from time to time

compromise security. More can hardly be asked of newspaper men who have no such legal restraints upon their actions and who are not as well informed on security questions. A performance score of one hundred percent may not be possible in the present state of our information ... whatever may be our good intentions. It would not even be surprising if someone found an occasional newspaperman who didn't have good intentions.

Granting good intentions how well are we equipped, presently, to gain the information necessary to avoid inadvertent publication that could be damaging. We do not have the helpful general guides that the voluntary censorship code furnished to us in war-time. Nor do we have the kind of frequent advisory information we had then, to keep us up to date on the fluctuating requirements of security.

In the absence of such supports, our only really practical means of making sure that a given publication does not violate security is the individual security officers of government departments. The defect in resort to such officials is in their varying degrees of information, their pre-occupation with security aspects of each case, their unfamiliarity with newspapers and with the private literature in the field. There is, in the press, an almost uniform desire to avoid censorship by anybody. Most newspapermen think it would be bad. Censorship by everybody -- everybody in uniform in security establishments all over the country -- could be even worse.

The members of this society and the newspaper industry members generally face an enormous challenge. We are without the means of adequately policing ourselves or our colleagues on security matters, no matter how good our intentions are. We can only consult security officials in whose journalistic judgment we generally lack confidence. We can not go bail for newspapers that are careless, reckless or irresponsible. We are, at the same time, without the means of assuring American citizens that information to which they are entitled is not being withheld from them by overzealous classification of security information.

Failure to protect security may, at some time in the future, bring about resort to a punitive statute in a manner that would poison the national climate and render difficult if not impossible another such operation as the war-time voluntary censorship, resting on mutual faith and trust.

Failure to protect the people's right to information, put in jeopardy by too zealous or too fearful use of powers of secrecy, may damage the democratic process itself and make our people incapable of forming intelligent judgments on national policy.

The American Society of Newspaper Editors and the individual members of the Society sometimes seem to shrink from the very contemplation of the dilemma that confronts those who wish to have both a secure and an informed people. If the industry itself does not come forward, sooner or later, with some alternative to a present situation that menaces both security and information, it must anticipate action by others that may be inacceptable or distasteful.

In 1950, a committee consisting of Benjamin McKelway, Nate Howard and James Pope, assisted by Jack Lockhart, general editorial manager of Scripps-Howard Newspapers, made a study of the security situation then existing and concluded that no form of censorship was required in what they called the then existing "twilight period". They recommended, at the same time, that if censorship of any kind become necessary, it should be based on the experience of World War II and should be administered by an independent agency, under the

direction of a civilian with background in communications media, on a voluntary basis. Another such thoughtful examination of current problems and issues in the security information field seems to be called for at this time.

It is to be hoped that officers and members will give this problem active study looking toward some affirmative solution and that individual members, in the meantime, may exercise voluntary restraints that will result in the press giving no occasion for the employment of legal coercion of a sort that no sensible person in government or in the newspaper business would like to see employed.

SECTION V

(Prepared by Paul Block, Jr.)

The past year has seen a great deal of valuable atomic energy information made public. Yet every fact that has emerged has raised many more questions that have remained unanswered. The result is that the public appears to be relatively farther behind informationally than ever before.

Among the significant pieces of information that have been learned officially during the year are the following:

1. Chairman Dean of the AEC, in a press conference June 25, 1953, stated that among the most significant AEC program developments of recent years were: ". . . the enormous expansion programs that have greatly stepped up the rate at which weapons materials are being produced, and that will increase it even more substantially in the future," and, ". . . the development of a family of atomic weapons -- a family which includes new designs of almost any usable energy release, small or large, and of almost any size. . . . I would also include the scientific progress of the Los Alamos Laboratory which has resulted in the much more efficient use of fissionable materials in weapons. This. . . has had the effect of greatly increasing the military effectiveness and explosive potential of our national stockpile of weapons without the expenditure of additional fissionable material."

2. On August 20, 1953, Chairman Strauss of the AEC stated that, "The Soviet Union conducted an atomic test on the morning of August 12," . . . ". . . information on the subject indicates that this test involved both fission and thermonuclear reactions."

3. President Eisenhower, in his address to the General Assembly of the United Nations, December 8, 1953, stated, in part:

> "Atomic bombs today are more than 25 times as powerful as the weapons with which the atomic age dawned, while hydrogen weapons are in the ranges of millions of tons of TNT equivalent.
>
> "Today, the United States' stockpile of atomic weapons, which, of course, increases daily, exceeds by many times the explosive equivalent of the total of all bombs and all shells that came from every plane and every gun in every theatre of war in all of the years of World War II.
>
> "A single air group, whether afloat or land-based, can now deliver to any reachable target a destructive cargo exceeding in power all the bombs that fell on Britain in all of World War II.
>
> "In size and variety, the development of atomic weapons has been no less remarkable. The development has been

such that atomic weapons have virtually achieved conventional status within our armed services. In the United States, the Army, the Navy, the Air Force, and the Marine Corps are all capable of putting this weapon to military use."

4. Among statements by Chairman Strauss of the AEC, at President Eisenhower's news conference of March 31, 1954, were the following:

-- "We detected the test of an atomic weapon, or device, by the Russians in August of 1949."

-- ". . . the feasibility of the fusion reaction was demonstrated and a prototype was tested at Eniwetok in November 1952. This test produced the largest man-made explosion ever witnessed to that date. . ."

-- "In August of last year the Russians also tested a weapon or device of a yield well beyond the range of regular fission weapons and which derived a part of its force from the fusion of light elements."

-- "The first shot (of the current 1954 test series of thermonuclear weapons) . . . was a very large blast but at no time was the testing out of control."

-- "With respect to a story . . . that there is danger of a fall-out of radioactive material in the United States, it should be noted that after every test we have had and the Russian tests as well there is a small increase in natural "background" radiation in some localities within the continental United States, but, currently, it is less than that observed after some of the previous continental and overseas tests, and far below the levels which could be harmful in any way to human beings, animals, or crops."

-- "One important result of these hydrogen bomb developments has been the enhancement of our military capability to the point where we should soon be more free to increase our emphasis on the peaceful uses of atomic power -- at home and abroad."

In response to questions during the news conference, Mr. Strauss stated:

Q. . . . is it possible that in any series of tests that a hydrogen explosion or series of them could get out of control?

A. I am informed by the scientists that that is impossible.

Q. . . . do you intend to imply that the work on the weapon phase of the atom is reaching a completion; that we are approaching a point where pursuit of this will no longer yield very large profits, and that we will, therefore, turn our research power to the peaceful applications?

A. The Military have certain requirements. The Commission is engaged in attempting to fill those requirements. The results of these tests have brought us very much nearer to the day of the satisfaction of military requirements, put us within sight of them, so that we can see the ability to proceed aggressively with the peacetime development of power to an extent that we are not able to before the tests.

Q. . . . what happens when the H-bomb goes off, how big is the area of destruction, etc.?

A. In effect, it can be made to be as large as you wish, as large as the military requirement demands, that is to say, an H-bomb can be made large enough to take out a city.

Q. How big a city?

A. Any city.

Q. New York?

A. The metropolitan area, yes.

(With reference to the foregoing, Mr. Strauss added later that he meant "put out of commission", not "to destroy".)

5. In the unclassified motion picture OPERATION IVY, issued to media March 31, 1954, the narrator described the pictured fireball of the thermonuclear device (detonated in November 1952) as follows: "This is the largest fireball ever produced. At its maximum it measures about three and one-quarter miles in diameter. Compared to the skyline of New York, this means that with the Empire State Building as zero point, the fireball would extend downtown to Washington Square and uptown to Central Park. In other words, the fireball alone would engulf about one-quarter of the Island of Manhattan."

Compared to past years, this is an impressive list of official statements.

We also learned considerable about old-style atomic bombs in a memorandum made public last March 22, along with a letter of warning, from J. Edgar Hoover of the possibility of saboteurs smuggling in parts from which such a bomb could be put together.

The hydrogen bomb explosion described by Chairman Strauss occurred 17 months ago. In the past one could not complain too much about information that was only 17 months old. But events today are occurring at such a rapid pace that the question is raised as to whether or not the people must not be told much more much sooner.

The past year also has seen a great deal of information made public about the reactor program and the new emphasis on the peacetime development of the atom.

But it is unfortunately necessary to add that it is almost universally agreed that the English compilation "Britain's Atomic Factories" gives a more comprehensive and concise picture of the subject of reactors for power than anything ever published in this country. We can only hope that some day the U.S. Atomic Energy Commission will compile information for the public deserving of similar accolades.

Why do we need more information? Witness the confusion of the Federal Civil Defense Administration. The potential of the hydrogen bomb required a major change in emphasis in the teachings of this organization. Now the watch-word is "evacuation" and training of rescue units is pinned to the needs of rescuing other areas rather than of one's own city.

But how far away must a person go to be safe from the latest H-bomb -- assuming, as one must, that it might be dropped on the heart of a city?

-- and what of the many stories about a cobalt bomb--which would set off a rain of destruction by the dropping of radioactive materials many miles from the site of the explosion?

Then there is the question of national defense policy. Some aver that the answer to megatons is megabucks, that we could enhance our defense against intercontinental attack if we spent more money. Clearly the answer to this is in the hands of the electorate. Does it have enough information on which to base a decision?

Besides the need of the American public for more specific information on the effects of weapons, there is need of more information for our allies, as President Eisenhower has pointed out to Congress.

A new and healthy condition has developed in recent weeks. There is a growing desire in Congress for more information. Until recently no congressman dared open his mouth on the subject of atomic information. First a Senator, Alexander Wiley of Wisconsin, then a Congressman, Michael Feighan of Cleveland, made appeals, the latter going so far as to introduce a resolution. Neither is a member of the joint committee.

One cannot help wondering whether or not the unfortunate fate of the "Fortunate Dragon" and its luckless crew of Japanese fishermen did not play a big part in causing some change among the people and the Congress. Has the astounding safety record of the Atomic Energy Commission and its contractors helped to hold back information because it denied us actual cases of injury, while our minds could not grasp the great intangibles of hypothetical destruction?

Maybe the world owes a great debt to this handful of unknown Japanese fisherman. For although the AEC has talked about "fallout" before, this is the first time that the idea has gotten over. Between telling something and effectively communicating it lies a vast chasm.

Not only is Congress writhing a little under present circumstances, but there are signs of changing attitudes in the Commission. Although the year produced the usual crop of say-nothing commission speeches, a speech by Commissioner Thomas E. Murray put the finger on the danger of compartmentalization of atomic information as never before.

Mr. Murray quotes a speech by Secretary of State Dulles in which Mr. Dulles stated that the United Nations charter was written in the spring of 1945 with no forewarning that an atomic bomb would be dropped in August of that year. But Mr. Murray states that many months before Mr. Dulles went to San Francisco, the committee on post war policy, set up by Gen. Leslie R. Groves of the famed Manhattan district, reached a conclusion in these words: "Nuclear fission bombs, of greatly improved efficiency, are certainly in sight and thermonuclear bombs, of ten thousand fold greater power, may even be feasible."

One controversy between the Atomic Energy Commission and certain members of the press deserves comment. In the past it has been the Commission's policy to approve submitted articles from a security point of view without any indication of whether or not the information contained in the article was true or false. Recently the Commission returned an article after refusing to review it. As a result no publisher could immediately be found for the article.

There may be occasions when an editor must be prepared to print a story which the AEC refuses to review. Of course, this requires complete faith in the reporter's integrity. Editors must be aware, however, that there are complications in

the cases of writers who had at one time been cleared by the AEC, and who therefore might have had access to classified material. Editors must also be aware that the argument that a conclusion can be printed safely because every part of it has previously been printed, is not valid in theory. It is theoretically possible that a conclusion obtained from a leak or from formerly accessible classified material, could be justified from accumulated published sources, but could not have been deduced from them in the first place.

In practice, however, since such conclusions would probably be lying very close to the surface, embarrassment would be greater to the government than to the national safety.

The Atomic Energy Act contains the death penalty for unauthorized disclosure of secrets. Under present law, the maximum penalty for stealing non-nuclear secrets is a prison term.

Now Attorney General Herbert Brownell, Jr., proposes to equalize the penalties by enacting the death penalty for peacetime espionage, generally.

Such an enactment, if approved by Congress, would lend additional weight to the observations in fourth section of this report.